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ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS, H.

In the Matter of the Unlicensed Sales Finance
Company and Motor Vehicle Dealer Activity of:

No. 08F-BD053-BNK

NOTICE OF HEARING

**BRADLEY-FORD, INC. (FN) DBA
RIVERVIEW AUTO SALES**
1686 Industrial Blvd.
Lake Havasu City, Arizona 86403

Petitioner.

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for May 6, 2008, at 1:30 p.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating motor vehicle dealers and sales finance companies pursuant to A.R.S. §§ 6-123 and 6-131.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative

1 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
2 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
3 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
4 Judge is specifically prohibited from entering.

5 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
6 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
7 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
8 Administrative Hearings.

9 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
10 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
11 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
12 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
13 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
14 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

15 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
16 made by a court reporter or by electronic means. Any party that requests a transcript of the
17 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

18 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
19 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

20 **NOTICE OF APPLICABLE RULES**

21 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
22 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
23 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
24 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
25 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
26 R2-19-122. A copy of these rules is enclosed.

1 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer **within twenty (20)**
2 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position
3 or defense and shall specifically admit or deny each of the assertions contained in this Notice of
4 Hearing. If the answering Petitioner is without or are unable to reasonably obtain knowledge or
5 information sufficient to form a belief as to the truth of an assertion, Petitioner shall so state, which
6 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner
7 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner
8 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
9 in the answer is deemed waived.

10 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioner will be**
11 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true
12 and admitted and the Superintendent may take whatever action is appropriate, including issuing an
13 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
14 motor vehicle dealers and sales finance companies in Arizona pursuant to A.R.S. §§ 6-123 and 6-
15 131; and imposing a civil money penalty pursuant to A.R.S. § 6-132.

16 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial
17 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
18 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
19 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
20 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

21 **Persons with disabilities may request reasonable accommodations such as interpreters,**
22 **alternative format or assistance with physical accessibility.** Requests for accommodations must
23 be made as early as possible to allow time to arrange the accommodations. If accommodations are
24 required, call the Office of Administrative Hearings at (602) 542-9826.

25 **FACTS**

26 1. Bradley-Ford, Inc. (FN) is a Kansas corporation, registered in Arizona as a foreign

1 corporation, doing business as Riverview Auto Sales ("Riverview"), an Arizona registered Trade
2 Name. Riverview is not and was not at any time material herein authorized to transact business in
3 Arizona as a motor vehicle dealer or as a sales finance company within the meaning of A.R.S.
4 §§ 44-281, *et seq.* The nature of Riverview's business is that of a motor vehicle dealer and a sales
5 finance company within the meaning of A.R.S. § 44-281(3) by arranging financing with banks
6 and/or sales finance companies.

7 2. Michael James Bradley is the President of Bradley-Ford, Inc. (FN).

8 3. Riverview is not exempt from licensure as a motor vehicle dealer or as a sales finance
9 company within the meaning of A.R.S. § 44-282(G).

10 4. On August 22, 2003, Riverview was issued a Sales Finance Company License
11 #0905782. Riverview's Sales Finance Company License was closed on September 16, 2006 due to
12 non-renewal.;

13 5. On August 1, 2007 the Department received a notarized Motor Vehicle Dealer
14 Application for Riverview, which was completed and signed by Mr. Bradley. The motor vehicle
15 dealer application revealed a start date of dealership and date of authorization to conduct business in
16 Arizona as May 17, 1991;

17 6. On November 1, 2007, the Department received a notarized Sales Finance Company
18 Application for Riverview which was completed and signed by Mr. Bradley;

19 7. On January 3, 2008, the Department received from Riverview the following, via
20 facsimile:

21 a. A facsimile cover sheet in which, Doug Falldorf ("Mr. Falldorf"), Riverview's
22 compliance and licensing contact, states in part, "... here is the list of new
23 and used cars that are financed for Riverview Auto Sales. . . . Riverview Auto
24 is a buy here pay here lot and all financing is done in-house."; and

25 b. A list of the number of vehicles sold by Riverview from September 2006 to
26 December 1, 2007; specifically:

1. Riverview sold twenty five (25) motor vehicles on a non cash basis in September 2006 while financing a total amount of two hundred seven thousand one hundred fifty eight dollars and ninety six cents (\$207,158.96) without a license;
2. Riverview sold twenty two (22) motor vehicles on a non cash basis in October 2006 while financing a total amount of one hundred seventy two thousand twenty six dollars and five cents (\$172,026.05) without a license;
3. Riverview sold fourteen (14) motor vehicles on a non cash basis in November 2006 while financing a total amount of one hundred seventeen thousand three hundred dollars and seventy nine cents (\$117,300.79) without a license;
4. Riverview sold twenty two (22) motor vehicles on a non cash basis in December 2006 while financing a total amount of one hundred seventy nine thousand three hundred seventy dollars and eleven cents (\$179,370.11) without a license;
5. Riverview sold twenty three (23) motor vehicles on a non cash basis in January 2007 while financing a total amount of one hundred sixty seven thousand eight hundred fifty eight dollars and eleven cents (\$167,858.11) without a license;
6. Riverview sold twenty eight (28) motor vehicles on a non cash basis in February 2007 while financing a total amount of two hundred thirty nine thousand two hundred five dollars and fifty two cents (\$239,205.52) without a license;
7. Riverview sold twenty three (23) motor vehicles on a non cash basis in March 2007 while financing a total amount of one hundred eighty

1 seven thousand four hundred forty three dollars and fifty nine cents
2 (\$187,443.59) without a license;

3 8. Riverview sold twenty seven (27) motor vehicles on a non cash basis
4 in April 2007 while financing a total amount of two hundred thirteen
5 thousand seventy one dollars and seventy two cents (\$213,071.72)
6 without a license;

7 9. Riverview sold twenty six (26) motor vehicles on a non cash basis in
8 May 2007 while financing a total amount of two hundred nineteen
9 thousand six hundred seventy eight dollars and twenty eight cents
10 (\$219,678.28) without a license;

11 10. Riverview sold twenty six (26) motor vehicles on a non cash basis in
12 June 2007 while financing a total amount of two hundred six thousand
13 seven hundred ten dollars and ninety four cents (\$206,710.94) without
14 a license;

15 11. Riverview sold thirty three (33) motor vehicles on a non cash basis in
16 July 2007 while financing a total amount of two hundred fifty nine
17 thousand eight hundred forty dollars and twenty one cents
18 (\$259,840.21) without a license;

19 12. Riverview sold twenty seven (27) motor vehicles on a non cash basis
20 in August 2007 while financing a total amount of two hundred one
21 thousand four hundred fifty one dollars and ninety seven cents
22 (\$201,451.97) without a license;

23 13. Riverview sold sixteen (16) motor vehicles on a non cash basis in
24 September 2007 while financing a total amount of one hundred thirty
25 three thousand five hundred eighty nine dollars and eighteen cents
26 (\$133,589.18) without a license;

- 1 14. Riverview sold twenty four (24) motor vehicles on a non cash basis in
2 October 2007 while financing a total amount of one hundred ninety
3 three thousand four hundred eighty four dollars and thirteen cents
4 (\$193,484.13) without a license;
- 5 15. Riverview sold seventeen (17) motor vehicles on a non cash basis in
6 November 2007 while financing a total amount of one hundred thirty
7 six thousand two hundred sixty four dollars and fifty three cents
8 (\$136,264.53) without a license; and
- 9 16. Riverview sold seven (7) motor vehicles on a non cash basis for the
10 partial month of December 2007 while financing a total amount of
11 sixty thousand six hundred sixty seven dollars and thirteen cents
12 (\$60,667.13) without a license.

13 8. Based upon the above findings, the Department issued and served upon Riverview a
14 Notice of Assessment on February 19, 2008.

15 9. On March 12, 2008, Petitioner filed a Request For Hearing to appeal the Notice of
16 Assessment.

17 **LAW**

18 1. Pursuant to Title 6 and Title 44, Chapter 2.1 of the Arizona Revised Statutes, the
19 Superintendent has the authority and the duty to regulate all persons engaged in the motor vehicle
20 dealer business and the sales finance company business and with the enforcement of statutes, rules,
21 and regulations relating to motor vehicle dealers and sales finance companies.

22 2. The conduct of Riverview, as alleged above constitutes the conduct of a motor
23 vehicle dealer and a sales finance company in the State of Arizona without having first obtained a
24 motor vehicle dealer license or a sales finance company license under Chapter 2.1 of Title 44, in
25 violation of A.R.S. § 44-282(A).

26 ...

1 3. Riverview does not meet any of the exemptions to the licensing requirements set forth
2 in A.R.S. § 44-282(G).

3 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
4 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to
5 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
6 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
7 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an
8 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
9 motor vehicle dealers and sales finance companies pursuant to A.R.S. §§ 6-123 and 6-131.

10 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
11 above-described violations, the Superintendent may issue a cease and desist order pursuant to A.R.S.
12 § 6-137; affirm the February 19, 2008 Notice of Assessment or impose a civil money penalty
13 pursuant to A.R.S. § 6-132; and order any other remedy necessary or proper for the enforcement of
14 statutes and rules regulating motor vehicle dealers and sales finance companies pursuant to A.R.S.
15 §§ 6-123 and 6-131.

16 DATED this 31 day of March, 2008.

17 Felecia A. Rotellini
18 Superintendent of Financial Institutions

19 By Robert D. Charlton
20 Robert D. Charlton
21 Assistant Superintendent of Financial Institutions

22 ORIGINAL of the foregoing filed this 31st
23 day of March, 2008, in the office of:

24 Felecia A. Rotellini
25 Superintendent of Financial Institutions
26 Arizona Department of Financial Institutions
 ATTN: Susan L. Longo
 2910 N. 44th Street, Suite 310
 Phoenix, AZ 85018

1 COPY mailed same date to:

2 Lewis D. Kowal, Administrative Law Judge
3 Office of the Administrative Hearings
4 1400 West Washington, Suite 101
5 Phoenix, AZ 85007

6 Craig A. Raby, Assistant Attorney General
7 Office of the Attorney General
8 1275 West Washington
9 Phoenix, AZ 85007

10 Richard Fergus, Division Manager
11 Tammy J. Seto, Senior Examiner
12 Arizona Department of Financial Institutions
13 2910 N. 44th^h Street, Suite 310
14 Phoenix, AZ 85018

15 AND COPY MAILED SAME DATE by
16 Certified Mail, Return Receipt Requested, to:

17 Bradley-Ford, Inc. (FN) dba Riverview Auto Sales
18 c/o Michael James Bradley, President
19 1686 Industrial Blvd.
20 Lake Havasu City, Arizona 86403
21 Petitioner

22 Doug Falldorf
23 Bradley-Ford, Inc. (FN) dba Riverview Auto Sales
24 1686 Industrial Blvd.
25 Lake Havasu City, Arizona 86403

26 CT Corporation System, Statutory Agent For:
Bradley-Ford, Inc. (FN) dba Riverview Auto Sales
2394 E. Camelback Road
Phoenix, AZ 85016


167659, PHX-AGN-2008-0021



ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini
Superintendent of Financial Institutions

Janet Napolitano
Governor

March 31, 2008

Via Certified Mail

Michael James Bradley, President
Bradley-Ford, Inc. (FN)
dba Riverview Auto Sales
1686 Industrial Blvd.
Lake Havasu City, Arizona 86403

Reference: Docket # 08F-BD053-BNK / Bradley-Ford, Inc. (FN)
dba Riverview Auto Sales

Dear Mr. Bradley:

Please find the enclosed formal Notice of Hearing. The hearing is scheduled for **May 6, 2008, at 1:30 p.m.** at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona.

Please contact **Assistant Attorney General Craig Raby** at **(602) 542-8889** with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert D. Charlton".

Robert D. Charlton
Assistant Superintendent

RDC:sl

Enclosures

cc: Craig Raby, Assistant Attorney General